

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

BRANDON FINCHUM,

Plaintiff,

v.

NACOGDOCHES COUNTY,

Defendant.

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CIVIL ACTION NO. 9:21-CV-285-MJT

**ORDER ADOPTING THE REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

On November 11, 2021, Plaintiffs Brandon Finchum and Paul Anderson filed a complaint alleging that multiple individual and governmental Defendants violated their federal and state rights based on the alleged interception of telephone calls made between Plaintiff Brandon Finchum and his attorneys. [Dkt. 1]. The District Court referred [Dkt. 50] this case to the Honorable Christine L. Stetson, United States Magistrate Judge, to conduct all pretrial proceedings, to enter findings of fact and recommend disposition on case-dispositive matters, and to determine non-dispositive matters. *See* 28 U.S.C. § 636(b)(1); E.D. TEX. LOC. R. CV-72.

The only remaining claims in this case are those which Plaintiff Brandon Finchum brings under the Federal Wiretap Act against Defendant Nacogdoches County. [Dkts. 15; 186 at 1–4, 8 n.3; 191 at 1]. For nearly a year, Plaintiff’s now-former counsel and the Magistrate Judge have been unable to communicate with Plaintiff regarding this case. [Dkt. 191 at 1–5]. Former counsel’s sustained efforts to locate and contact Plaintiff included repeated phone calls and voice messages to all known telephone phone numbers used by Plaintiff during the course of this litigation, mail sent to Plaintiff’s last known address, the use of a private investigator, and skip

tracing. [Dkts. 190; 191 at 5]. Plaintiff's unresponsiveness resulted in his absence from a hearing on former counsel's motion to withdraw, despite being court-ordered to attend, as well as the Magistrate Judge having to stay all deadlines in this case with no restoration in sight. [Dkts. 187 at 13; 191 at 2, 5].

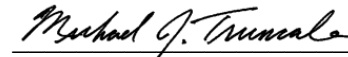
On January 7, 2025, the Magistrate Judge ordered Plaintiff's former counsel to provide the Court with Plaintiff's last known address and all known telephone numbers, with which former counsel complied. [Dkts. 189; 190]. Based on this record of delay, the Magistrate Judge issued a Report and Recommendation [Dkt. 191] on January 15, 2025, advising the Court to *sua sponte* dismiss with prejudice Plaintiff's remaining claims against Defendant Nacogdoches County pursuant to Federal Rule of Civil Procedure 41(b). The Magistrate Judge directed the Clerk of Court to mail a copy of the Report and Recommendation to Plaintiff's last known address of record at 130 CR 200, Nacogdoches, Texas 75965. *Id.* at 7. To date, the parties have not filed objections to the Report.

The Court received and considered the Report and Recommendation of the United States Magistrate Judge pursuant to such referral, along with the record, pleadings, and all available evidence. After careful review, the Court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct.

Accordingly, the Report and Recommendation of the United States Magistrate Judge [Dkt. 191] is ADOPTED. Pursuant to Federal Rule of Civil Procedure 41(b), Plaintiff Brandon

Finchum's claims against Defendant Nacogdoches County are DISMISSED WITH PREJUDICE for failure to prosecute and obey the Court's orders.

SIGNED this 19th day of February, 2025.

A handwritten signature in black ink, reading "Michael J. Truncale", is positioned above a horizontal line.

Michael J. Truncale
United States District Judge